

IN THE UNITED STATES DISTRICT COURT FOR

FILED

THE WESTERN DISTRICT OF OKLAHOMA

FEB 04 2010

RODNEY SAMPSON,)
Petitioner,)
vs.)
JAMES RUDEK, Warden,)
Respondent.)

ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY Yuk DEPUTY

No. CIV-09-1341-W

ORDER

On January 14, 2010, United States Magistrate Judge Robert E. Bacharach issued a Report and Recommendation in this matter and recommended that the Court overrule the Motion Requesting Judgment by Default filed by petitioner Rodney Sampson. Sampson was advised of his right to object to the Report and Recommendation, but he has filed no objections.

Upon review of the record, the Court concurs with Magistrate Judge Bacharach's suggested disposition of this matter. At the time Sampson drafted his motion, January 8, 2010, and sought judgment by default for the alleged failure of respondent James Rudek to respond to Sampson's Application for Writ of Habeas Corpus, Rudek had not missed the response deadline established by the Court; Rudek had until January 20, 2010, to file his response. See Doc. 9. Accordingly, Rudek had not defaulted, and Sampson is not entitled to the relief he has requested.

Based upon the foregoing, the Court

(1) ADOPTS the Report and Recommendation [Doc. 11] issued on January 14, 2010;

(2) OVERRULES Sampson's Motion Requesting Judgment by Default [Doc. 10] file-stamped January 12, 2010; and

(3) RE-REFERS this matter to Magistrate Judge Bacharach for further proceedings..

ENTERED this 4th day of February, 2010.



LEE R. WEST
UNITED STATES DISTRICT JUDGE